UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1995/17
12 December 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-first session
Item 3 (c) of the provisional agenda
30 January-10 March 1995

ORGANIZATION OF THE WORK OF THE SESSION

Report of the Chairman of the informal, open-ended working group, convened pursuant to Commission on Human Rights decision 1994/111

Chairman/Rapporteur: Mr. Peter Paul van Wulfften Palthe
(The Netherlands)

Introduction

1. Pursuant to Commission on Human Rights decision 1994/111 entitled "Organization of the work of the session", in which the Commission on Human Rights decided to convene an informal, open-ended working group under the chairmanship of the Chairman of its fiftieth session for a maximum period of 10 working days, the working group met from 12 to 23 September 1994 at the Palais des Nations at Geneva.

2. In accordance with the same decision the working group discussed:

(a) The reclustering of the Commission's agenda, with a view to proposing a provisional agenda for the fifty-first session;

(b) Organizational matters related to the above, including the organization of the work and documentation;

(c) A preliminary inventory of other reforms.

The agenda of the Working Group as adopted (E/CN.4/1994/WG.12/1/Rev.1) included the same items.

3. Also in its decision 1994/111, the Commission decided that the work of the working group would be conducted on the basis of consensus.

4. Pursuant to the same decision the secretariat prepared and presented to the working group an analysis of the organization of the work of the past three sessions of the Commission on Human Rights (E/CN.4/1994/WG.12/2).

5. The Working Group was attended by representatives of States members of the Commission on Human Rights, by observers from other States Members of the United Nations, observers from non-member States, by a representative of a specialized agency and by representatives of regional intergovernmental organizations and non-governmental organizations.

6. At its 1st meeting, on 12 September 1994, the working group heard a statement by the High Commissioner for Human Rights.

7. The working group considered together all the topics listed in paragraph 2 above (agenda items 2 (a), 2 (b) and 2 (c)) in general debate, followed by separate consideration of each sub-item.

8. During the consideration of the reclustering of the agenda (item 2 (a)), the working group had before it a note by the Chairman containing a draft provisional agenda for the fifty-first session of the Commission on Human Rights (E/CN.4/1994/127) and two revised proposals by the Chairman, as well as proposals made by the African Group and the Islamic Republic of Iran (E/CN.4/1994/WG.12/CRP.1 and E/CN.4/1994/WG.12/Rev.1). The working group failed to reach a consensus on any of these proposals.

9. In the course of the consideration of "organizational matters" (item 2 (b)), proposals were made by the participants, which were incorporated by the Chairman into a list of recommendations. The list presented to the working group by the Chairman was subsequently revised to take into account several suggestions made by a number of participants. However, the working group again failed to reach consensus.

10. With regard to the consideration of "a preliminary inventory of other reforms" (item 2 (c)), the Chairman presented to the working group a list of proposals incorporating all the proposals made by the participants. At the request of a number of participants, the Chairman subsequently presented to the working group a revised version of that list, with an indication of possible consensus on a number of proposals.

11. The representative of one member State questioned the inclusion of such an indication, which, in his opinion, went beyond the mandate of the working group.

12. Consequently, the indication of proposals which could possibly be accepted by the working group as a whole was deleted from the Chairman's revised list of proposals. The working group agreed that the final list would only contain proposals for other possible reforms and that all proposals which basically confirmed existing practices and procedures should be deleted. The final list, with corrections subsequently requested by a number of participants, is contained in the annex.

Annex

POINTS RAISED UNDER ITEM 2 (c)

(A PRELIMINARY INVENTORY OF OTHER REFORMS)

I. GENERAL

1. "Agenda for Peace" and "Agenda for Development" should be carefully studied.

2. "Agenda for Peace", which includes the question of preventive diplomacy, is currently under consideration by the General Assembly; in order to avoid duplication, it is recommended that neither the question as a whole nor any of the concepts it embraces should be examined in the Commission on Human Rights.

3. A comprehensive and integrated approach to the reorganization/ rationalization of the work of the Commission is required.

4. The concepts of prevention of human rights violations and of protection and promotion of human rights should be reflected in the work of the Commission.

5. International cooperation as stipulated in the Charter of the United Nations is essential in human rights work.

6. International cooperation must be encouraged through dialogue and consensus, the basic pillars of international relations that help to promote and protect all human rights.

7. Participation of regional and subregional bodies in Commission sessions should be encouraged.

8. National Governments have the prime responsibility for promotion and protection of human rights.

II. COMMISSION SESSIONS

1. Duration

The session could be limited to four to five weeks.

The Commission could have a session of four weeks and the Sub-Commission could have a session of two weeks, following the Commission session.

It would be premature to shorten the sessions without knowing the outcome of the rationalization process, and such a step might prejudice the process.

2. Decision-making methods

Effectiveness of the Commission could be ensured by the framework of consensus.

The decision-making process should be facilitated through informal dialogue.

The principle of a two-thirds majority (in voting) in decision-making on important matters (issues) could be established.

In order to promote international cooperation and guarantee a more democratic, impartial, objective and non-selective approach to such sensitive decisions, the adoption of resolutions on individual cases (countries), should require the affirmative vote of two thirds of the members and voting, if no consensus is possible.

3. Membership

The full participation of all the States of the world should be realized on an equal and permanent basis.

The enlargement and/or upgrading of the Commission should be considered.

Criteria for qualification to be a member of the Commission could be considered.

More equitable geographical distribution by regions should be realized.

The principle of equitable geographical distribution should prevail in respect of membership. To that end, and bearing in mind the fact that some regions of the world are over-represented, seats should be redistributed in favour of the developing countries.

The principle of rotation should be strictly adhered to in the election of new members.

4. Special sessions

A less rigid procedure should be explored for convening a special session, for example, by reducing the required number of member States agreeing to a special session.

The High Commissioner for Human Rights should be authorized to convene a special session.

Special sessions may not be used to establish precedents which contravene or violate the Charter of the United Nations.

5. Non-governmental organization (NGO) representation

An NGO forum could be held during or shortly before the Commission session to improve coordination among them.

NGO contributions to advisory services and technical cooperation should be further encouraged.

NGOs from the regions with few NGOs should be encouraged to participate in the Commission sessions.

NGO contributions to the Commission should not be restricted but regulated/organized/structured.

Participation of NGOs should be based on Economic and Social Council resolution 1296 (XLIV) and they should exercise self-restraint.

Participation by NGOs engaged in the protection and promotion of economic, social and cultural rights should be encouraged.

6. Consideration of agenda items

Consideration of economic, social and cultural rights should be strengthened and be balanced with that of civil and political rights.

Advisory services and technical cooperation should be strengthened.

Advisory services should not be improperly used as an alternative for consideration of country situations.

Advisory and technical cooperation services are provided at the request of the States concerned, with indications of the areas in which they require such services and without diverting resources from United Nations development programmes and activities.

A new item on the violation of human rights of peoples should be included, covering:

Foreign occupation;

Acts of aggression and threats against States' territorial integrity;

Denial of the right of peoples to self-determination and development;

The right of peoples to sovereignty over their natural resources;

Enforcement of unilateral coercive measures.

Human rights and environment should be included in the agenda under the right to development.

A new item should be added to the agenda, entitled "Strengthening of international cooperation for the promotion and protection of all human rights".

A new item should be added to the agenda, entitled "Improvement of United Nations human rights machinery to ensure a balance between the right to development, economic, social and cultural rights and civil and political rights".

A new item should be added to the agenda, entitled "Ways and means of ensuring that the working methods of the existing human rights machinery duly reflect the principles of non-selectivity, impartiality and objectivity".

7. Follow-up of the Vienna Declaration and Programme of Action

A mechanism should be established to follow up the Vienna Declaration and Programme of Action, in particular to pursue the linkage between human rights, democracy and development.

No new machinery should be established: what is needed is an evaluation of the effectiveness of the existing machinery.

The Vienna Declaration and Programme of Action should be applied as a whole, not selectively. For that reason, no priorities should be set.

The High Commissioner for Human Rights and the Assistant Secretary-General for Human Rights should draw up a plan of action to follow up the Vienna Declaration and Programme of Action.

Special rapporteurs and other mechanisms should also monitor and report on the implementation of the Vienna Declaration and Programme of Action.

III. SPECIAL PROCEDURES

1. Appointment of special rapporteurs and members of working groups

The appointment should be done with transparency, consideration of equitable geographical distribution and only after consultation with regional groups.

The special rapporteurs and experts on country situations should be from the regions concerned.

Appointment of special rapporteurs should be based on the agreement of all members of the Bureau.

Appointment of special rapporteurs should be made after in-depth consultation. In the absence of consensus, a procedure of election or voting should be created.

Appointment of special rapporteurs by the Chairman should be approved by the Commission by consensus.

2. Mandates

The special rapporteurs and working groups of thematic mandates should not interpret their mandates in practice, derogating from their original mandates as decided by the Commission.

3. Methods of work

Coordination between thematic rapporteurs, and also between thematic rapporteurs and country rapporteurs should be improved. The establishment of a board of rapporteurs could be considered.

Duplication of work of special rapporteurs should be identified and avoided.

Those mandates which are overlapping and repetitive should be identified.

The Commission should establish uniform criteria for the frame of work for all special rapporteurs and working groups of thematic mandates.

The question of admissibility of information addressed to special rapporteurs and working groups should be considered. Criteria for such admissibility should be established.

4. Follow-up of the recommendations

Priority should be given to follow-up of the recommendations of the special rapporteurs.

A special committee should be set up before or during the Commission, to review the extent to which the recommendations by the special rapporteurs have been respected by the countries concerned.

Setting up a committee to examine recommendations by the special rapporteurs would be counterproductive because it would in fact result in a duplication of the work of the Commission.

The special rapporteurs should not make specific recommendations condemning Governments, but should keep their recommendations general.

5. Special rapporteurs on country situations

A country mentioned in a given number of years consecutively in thematic reports should be considered by a special rapporteur who would be appointed to consider the situation in that country.

IV. SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

1. Role and function

Duplication of its work with that of the Commission should be avoided.

The Sub-Commission should draw to the Commission's attention only those situations of human rights violations which are not under the consideration of the Commission.

The Sub-Commission should be abolished.

The role of the Sub-Commission in general should be reviewed.

An exchange of views should be held with the working group on the methods of work of the Sub-Commission.

2. Expert members

The independent status of the expert members should be reinforced.

Candidates for membership of the Sub-Commission who hold governmental posts should be disqualified.

V. COMMUNICATIONS PROCEDURE ("1503 PROCEDURE")

1. Once situations are referred to the Commission by the Sub-Commission under the 1503 procedure, they should be made public.

2. Communications concerning economic, social and cultural rights should be admitted under 1503 procedures.

3. Transferring to public scrutiny of those States, which are retained for consideration by the Commission for a second or third consecutive year, should be considered as a measure to strengthen the 1503 procedure.

4. The role and value of the Working Group on Communications of the Sub-Commission and Working Group on Situations of the Commission should be re-examined.

5. The confidential 1503 procedure could be modified to ensure that up-to-date information is used in making determinations.

VI. HIGH COMMISSIONER FOR HUMAN RIGHTS

1. The High Commissioner for Human Rights should be the recipient of all information concerning human rights. He should then prepare a consolidated report to the Commission.

VII. SECRETARIAT (CENTRE FOR HUMAN RIGHTS)

1. The Centre for Human Rights could compile information on a country-by-country basis.

2. The Centre should carry out its activities with transparency.

3. Information concerning the workload of the Centre, staff members and work assignments should be made available.

4. Recruitment from developing countries should be promoted.

5. The principle of equitable geographical distribution should be applied in the staff composition and recruitment.

6. The effectiveness of the Centre should be strengthened.

7. The question of resources should be followed up year round by the Chairman/Bureau members through ACABQ and other organs of the General Assembly.

8. The appointment of boards of trustees of the voluntary funds should be made in a more transparent manner. Those boards should include representatives of Governments and not only individuals selected by the Secretary-General.

9. The Centre for Human Rights should confine its functions to those that befit a unit of the Secretariat. Functions that are the exclusive prerogative of States cannot be taken over by the Centre.

VIII. NEW MECHANISMS AND FUNCTIONS

1. In order to enforce its decisions the Commission should develop closer linkage with other United Nations bodies, including UNDP, UNESCO, UNICEF, ILO and others. The Commission should also work to move human rights' concerns more clearly onto the agenda of these organizations.

2. A closer link should be established between human rights and maintaining international peace. The High Commissioner for Human Rights should be able to participate in the meetings of the Security Council.

3. A legally binding penalty system should be considered.

4. The use of legal sanctions could create more difficulties than solutions.

5. The Commission should develop a standing mechanism to deal with human rights violations in internal conflicts.

6. Procedures for incorporating human rights' elements in peace-keeping operations should be established. The Commission should invite the Department of Peace-keeping Operations to its sessions.

7. Legally binding penalties to be imposed on the Governments which are responsible for violations of human rights should be accompanied by development of and improvement in human rights monitoring systems.

8. More attention and resources should be directed to ways to strengthen the monitoring systems, especially support for the special rapporteurs and the human rights monitors.

9. Cooperation and coordination with United Nations agencies, specialized agencies and other international organizations should be strengthened. The High Commissioner for Human Rights could be asked to develop inter-agency programmes on human rights.

10. The Commission should consider sending fact-finding missions to the areas where gross violations of human rights exist.

11. A new Sub-Commission on freedom of information should be established.

12. A permanent evaluation mechanism should be established to follow up the implementation of the Declaration on the Right to Development.

13. Prevention programmes against human rights violations should be developed.

14. A preventive system of continuous monitoring and investigation of human rights violations should be developed.

15. Increased attention should be given to human rights education programmes.

16. In-depth evaluation of existing machinery is needed before establishing any new mechanism.

17. The Commission should have round-table discussions on topics of urgent concern.

18. The Commission should emphasize building democratic institutions, including assistance for free elections.

- - - - -